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**CHAPTER 19.18 APPLICATIONS AND PROCEDURES****19.18.010 GENERAL****A. Compliance with General Plan**

Except as otherwise authorized by this Title, approval of all Rezoning, Development Reviews, Special Use Permits, Variances, Minor Exceptions and Development Agreements shall be consistent with the spirit and intent of the General Plan.

**B. Application**

1. **Time of Filing.** In order to provide sufficient time for the necessary investigation by the Planning Commission and/or its Secretary and agents, a complete application for the request must be filed with the Director a minimum of 30 days prior to the date of the meeting at which the application is to be heard and considered.
2. **Notarized Application.** Applications shall be signed by the owner and notarized. If the property has multiple owners, the applicant shall provide the City with a list of all persons and entities with an ownership interest in the property if not all of the owners have signed the application.
3. **Pre-application Conference.** A pre-application conference with a designated representative from the Department of Planning and Development is required prior to submitting an application for a General Plan Amendment, a Rezoning, a Special Use Permit, a Variance or a Development Agreement.
4. **Review of Applications.** Following the submittal of an application, staff shall review the application to verify that the information is complete and fulfills application requirements. If the application is not complete, staff will notify the applicant, and the application will not be scheduled on an appropriate agenda until the application is complete.
5. **Discretion Regarding the Acceptance of Applications.** The Director has the discretion not to accept any application which seeks action that is not available under this Title.

**C. Fees**

1. **Adopted.** The Director is authorized to charge fees related to the processing of applications in accordance with the Fee Schedule. The Fee Schedule set forth in Title 19 is hereby adopted as part of this Title and may be amended from time to time by resolution of the City Council.
2. **When Payable.** Fees for filing applications and other requests under this Title are set forth in the Fee Schedule and are due at the time the application or request is filed.
3. **Additional Fees.** With respect to any application under this Title that requires notification of a public hearing, the applicant shall also pay the notification and advertising costs identified in the Fee Schedule. Payment of those costs shall be made upon filing of the application.

## **D. Posting of Signs**

### **1. General**

- a. Notification signs shall be posted by the Department of Planning and Development or its authorized agent or contractor. An application will not be processed until the applicant has paid the fees established by the City for the posting of signs.
- b. Notification signs shall be posted in conformance with NRS 278.260 as supplemented by this section.
- c. Each notification sign must be of a size not less than four feet high and three feet wide; provided, however, that, in the case of a store frontage, the minimum size of a notification sign placed in the store front window shall be two feet high and two feet wide.

### **2. Number of Signs Required**

- a. One notification sign is required for tracts of five acres or less.
- b. The Director may determine that additional notification signs should be posted for each additional five acres or portion thereof.

### **3. Timing.** The required number of notification signs shall be posted on the property at least 10 days before the date of the first scheduled public hearing.

### **4. Placement of Signs**

- a. The signs must be posted at a prominent location on the subject property and must be easily visible by the general public.
- b. Required signs shall remain visible and legible from 10 days prior to the first public hearing and until final action is taken. The applicant is responsible for ensuring compliance with this paragraph once the required signs have been posted.
- c. The City or its authorized agent or contractor is responsible for removing the notification signs after the final action on the case.

### **5. Inadequate Notice.** If it is determined that adequate notice has not been provided in accordance with this Section, the Planning Commission or City Council may hold the application in abeyance or deny the application.

### **6. Illegal Removal of Signs.** It is unlawful to intentionally or knowingly remove a notification sign that has been posted pursuant to this section or conceal the sign message.



## E. Development Impact Notice and Assessment (DINA)

1. **Background.** Pursuant to 1999 Statutes of Nevada, Chapter 481, ("Chapter 481"), a person who proposes to develop a project of significant impact is generally required to submit an impact statement to the local zoning authority before specified actions can be taken regarding the project. This Section implements the requirements associated with Chapter 481. The impact statement to be required by the City is identified as a Development Impact Notice and Assessment (DINA), and requires the information described in Chapter 481. The required information includes information regarding vehicle trips, student enrollment, sewage generation, water demand, storm water runoff, distance from public safety facilities, existing and planned capacities of service required for the project, and other anticipated effects of the project.

For the purposes of this Section, a project is deemed to be a "project of significant impact" if it would create:

- a. Final maps or planned unit developments of 500 units or more;
  - b. Tourist accommodations of 300 units or more;
  - c. A commercial or industrial facility generating more than 3,000 average daily vehicle trips; or
  - d. A nonresidential development encompassing more than 160 acres.
2. **Applicability.** This subchapter applies to all development within the City, except for any project:
    - a. Located on property which was the subject of a development agreement with a local government, if the agreement became effective before June 8, 1999; or
    - b. Which was approved before June 8, 1999.
  3. **Requirements.** Before scheduling a pre-application conference in accordance with Section 19.18.010(B), a person proposing a development of significant impact in connection with an application for rezoning, for site development plan review, or for a special use permit must meet with agencies and service providers from which the information required for a DINA report must be obtained. At the pre-application conference, the applicant must present to Planning and Development staff, on forms provided by the Department, the agency and provider responses that have been obtained by the applicant. A completed DINA report must be submitted no later than at the time of making an application under this Chapter. The department is authorized to withhold the processing of an application until a completed DINA report has been submitted.
  4. **Review.** Action by the City Council concerning a project of significant impact shall be in accordance with Chapter 481. Pursuant to the provisions of Chapter 481, the City Council may approve a project with respect to which the capacities of roads, sources of water supply or facilities for wastewater and flood control will not be sufficient to support the project if the Council requires the person who proposes to develop the project to carry out appropriate measures of mitigation to substantially reduce the impact of the project on those elements of infrastructure.

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**F. Projects of Regional Significance**

1. **Determination.** At the earliest stage feasible, the Department shall determine whether a development proposal, proposed zoning map amendment, proposed local land use plan amendment, proposed Special Use Permit, or other proposal qualifies as a “project of regional significance.” Where possible, this determination should be made at the time an application is filed for a proposal that requires review at a public meeting.
2. **Assessment and Referral.** Upon determining that a proposal qualifies as a “project of regional significance” by reason of its proximity to the boundary of another municipal corporation or an unincorporated area (the “affected local government”), the Department shall refer the proposal to the affected government(s). The referral shall consist of a description of the proposal, copies of any application materials, and an impact statement that includes at a minimum:
  - a. The number of vehicle trips that the proposal will generate, estimated by applying to the proposal the average trip rates for the peak days and hours established by the Institute of Transportation Engineers (or its successor).
  - b. The estimated number of pupils that the proposal will add to the enrollment of each elementary school, junior high/middle school, and high school that will be impacted by the proposal.
  - c. The distance from the site of the proposal to the nearest facilities from which firefighting, police and emergency services will be provided, including without limitation facilities of a local government that are planned but not yet constructed, and facilities that have been included in a local government’s plan for capital improvements prepared pursuant to NRS 278.0226.
  - d. A brief statement setting forth the anticipated effect of the proposal on housing, mass transit, open space and recreation.
3. **Comment by affected Local Government(s).** Upon receipt of a referral, an affected local government shall have 15 calendar days within which to provide comments to the Department. The comments may propose suggestions for the mitigation of any negative impacts of the proposal on the affected local government.
4. **Consideration of Comments.** The Department shall, within its discretion, give consideration to any suggestions for mitigation that have been received from an affected local government and, in accordance therewith, shall require or recommend mitigation of the proposal’s potential negative impacts on the affected local government to the maximum practical extent. For purposes of this paragraph, “maximum practical extent” means that under circumstances:
  - a. Reasonable efforts have been made to minimize any negative impacts of the proposal;
  - b. The costs of compliance with the suggestions for mitigation clearly exceed the potential benefits to the public, or would unreasonable burden the proposal; and
  - c. Reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from the failure to implement the suggestions for mitigation.

5. **Report of Findings.** The Department shall prepare a written description of the manner in which the suggestions for mitigation by any affected local government(s) were addressed, and shall include the description with or in the staff report regarding the proposal. The description shall be included in the project file for the proposal. The Department shall send the description to any affected local government that provided comments regarding the proposal, endeavoring to do so by the time that draft staff reports are distributed for the Planning Commission meeting at which the application for the proposal is to be heard.
6. **Interpretation of Notification and Separation Requirements.** For purposes of applying the distance-separation and property-owner notification requirements of this Title, distances shall be measured, and property owners notified, without regard to jurisdictional boundaries.

## 19.18.020 ANNEXATION

### A. Purpose

The purpose of the annexation procedures is to establish a process for incorporating property into the City of Las Vegas. The City of Las Vegas will consider annexation of any developed or undeveloped property that satisfies the eligibility requirements and provisions of NRS 268.570 to 268.608. The City will also zone newly annexed areas under the appropriate zoning category in accordance with procedures and guidelines contained in this subchapter and the adopted goals and policies of the City's General Plan.

### B. Application

A petition for Annexation shall be made on a form provided by the Department of Planning and Development. All applications shall be filed with the Director of the Department of Planning and Development.

### C. Zoning Classification of Newly Annexed Territory

#### 1. General

- a. Annexation shall be in accordance with the provisions of NRS 268.570 through 268.608.
- b. The following guidelines shall be used to determine the zoning classification of any parcel to be annexed to the City:
  - 1) **Developed.** The annexed territory, if developed, shall be classified with the same zoning classification that was in effect on the property prior to annexation or the nearest comparable classification.

- 2) **Undeveloped.** If the property annexed is undeveloped, but is classified for development other than residential uses or for residential uses permitting more than two dwelling units per acre, it shall be classified with the same zoning classification that was in effect on the property prior to annexation or the nearest comparable classification; or the City Council may, as a condition of annexation, change the classification to a more restrictive classification.
- 3) **Undeveloped and Classified.** If the property annexed is undeveloped and classified for residential uses permitting no more than two dwelling units per acre, the parcel shall be classified with the same zoning classification that was in effect on the property prior to annexation or the nearest comparable classification; or the City Council may, as a condition of annexation, classify the parcel(s) as U (Undeveloped) until such time as a proper classification is determined, at which time it may be rezoned under the procedures set forth in Subchapter 19.18.040.
- 4) **Partially Developed.** If the property to be annexed is partially developed, the property, as described in the above subsections, shall apply separately or collectively to the undeveloped portions and developed portions.
- 5) **Undeveloped Without Permanent Zoning.** For undeveloped property which has been approved for rezoning by Resolution of Intent or otherwise, but for which the rezoning has not been made permanent by ordinance, the City may, as a condition of annexation, change the zoning to a more restrictive classification.

#### **D. Annexation Process and Procedures**

1. **Annexation Process.** Standard annexation of territory must follow the annexation process and procedures established in NRS 268.578 through 268.596.
2. **Alternate Annexation Process.** As an alternative to the procedures set forth in NRS.268.578 through 268.596, the City may annex qualifying territory in accordance with NRS 268.597.

## 19.18.030 GENERAL PLAN AMENDMENT

### A. Purpose

The purpose of this subchapter is to set forth the procedures by which the Planning Commission and City Council will periodically review and evaluate the General Plan to ensure that it remains an accurate statement of the City's land-use goals and policies based on current data.

### B. Authority

Whenever the public health, safety and general welfare requires, the City Council may, upon a resolution of the Planning Commission carried by the affirmative votes of not less than five members, or upon review of a requested General Plan Amendment which has not been approved by resolution of the Planning Commission, change the General Plan land use designation for any parcel or area of land to allow different zoning classifications. Subsequent growth and development factors in the community may be considered, among other factors, when determining whether such amendment to the General Plan promotes the public health, safety and general welfare.

### C. Application

1. **Initiation of Application.** A General Plan Amendment may be initiated by the Planning Commission or the City Council, or by means of an application filed by the owner(s) of record of each parcel of property proposed for a General Plan Amendment.
2. **Pre-Application Conference.** Before submitting an application for a General Plan Amendment, the owner or authorized representative shall engage in a pre-application conference with the staff of the Department of Planning and Development to discuss preliminary land planning, including land use relationships, density, transportation systems, infrastructure facilities and landscaping and open space provisions.
3. **Form and Filing.**
  - a. An application for a General Plan Amendment shall be made to the Planning Commission on a separate application form to be provided by the Department of Planning and Development. The application shall be signed, notarized and acknowledged by the owner of record of each parcel of property. This application shall be filed with the Secretary of the Planning Commission at the office of the Department of Planning and Development.
  - b. In addition, any application for a General Plan Amendment shall specifically list reasons for the request and state why the proposed amendment works to promote the public health, safety and general welfare of the community. The application shall contain a list of factors requiring comment by the applicant, including:
    - 1) Whether there has been unanticipated growth and development of the community in the area surrounding the application site or growth and development not specifically considered when the General Plan was adopted;

- 2) Whether the proposed amendment to the General Plan will allow a zoning classification which imposes burdens similar to the burdens imposed by the classification currently provided for under the General Plan;
  - 3) Whether the amendment to the General Plan continues to promote the objectives of the General Plan as designated in NRS 278.
4. **Other Governmental Ownership.** With respect to property which is owned by the State of Nevada or the United States of America, a General Plan Amendment application is sufficient if it is signed and acknowledged by a prospective purchaser of that property who has entered into a contract with the governmental entity to obtain ownership of the property.
  5. **Non-Property Owner.** A General Plan Amendment application is sufficient if it is signed and acknowledged by a lessee, a contract purchaser or an optionee of the property for which the General Plan Amendment is sought. However, interest in that property must exist in a written agreement with the owner of record, attached to which is a copy of the General Plan Amendment application and in which the owner of record has authorized the lessee, contract purchaser or optionee to sign the application. The agreement must further stipulate that the owner of record consents to the filing and processing of the application.
  6. **Multiple Ownership.** In the case of multiple ownership of a parcel, only one of the owners of record shall be required to sign the application. A list of all other owners shall be provided with the application.
  7. **Quarterly Consideration.** In the interest of economy and efficiency in the processing of applications, and in the interest of providing for amendments to the General Plan that are orderly and well-considered in relation to each other and to the public interest, the Director of Planning and Development is authorized to process applications to amend the General Plan so that such applications are presented to the Planning Commission and City Council on a quarterly basis. Such applications may be filed at any time, but the Director may withhold the processing of such applications in order to accomplish the purposes of this Subsection. After its initial presentation to the Planning Commission or City Council, any such application may be held in abeyance to and considered at any subsequent meeting. The Director of Planning and Development may withhold the scheduling of related zoning applications until a meeting subsequent to the one at which proposed Plan Amendments are heard.

#### **D. Successive Applications**

1. **Previously Denied Application.** An application for a General Plan Amendment for a parcel in which all or any part was the subject of a previous General Plan Amendment application for the same land use category, a similar category or a less restrictive land use category has been denied, or which has been withdrawn subsequent to the noticing of a public hearing, shall not be accepted until the following periods have elapsed between the date of the denial or withdrawal and the date of the meeting for which the proposed application would be scheduled in the normal course:

- a. After the first denial or any withdrawal after public notice has been given – one year.
  - b. After the second or subsequent denial or withdrawal after public notice has been given - two years.
2. **Previously Withdrawn Application.** The time periods that are described in subsection 1 of this section and that otherwise would become effective because of the withdrawal of an application shall not become effective if, after consideration of the timing and circumstances of the withdrawal, the Planning Commission or the City Council specifically approves the withdrawal without prejudice.

## **E. Request for Abeyance**

Any applicant who wishes to have an application held in abeyance following the notice and posting of the agenda of the Planning Commission or the City Council shall state good cause for the request. Good cause shall be more than mere inconvenience to the applicant or lack of preparation.

## **F. Planning Commission Public Hearing and Action**

1. **Hearing.** Subject to the provisions of Section 19.18.030(C)(7), upon receipt of a complete General Plan Amendment application or an Amendment proposed by the Planning Commission or City Council, the Planning Commission shall hold a public hearing.
2. **Notice**
  - a. **Notice Provided.** Notice of the time, place and purpose of the hearing must be given at least 10 days before the hearing by:
    - 1) Publishing the notice in a newspaper of general circulation within the City;
    - 2) Mailing a copy of the notice to:
      - a) The applicant;
      - b) Each owner of real property located within a minimum of 500 feet of the property described in the application or, in the case of an application proposing a project of regional significance (as described in NRS 278.02542), a minimum of 750 feet;
      - c) Each tenant of any mobile home park that is located within 300 feet of the property described in the application or, in the case of an application proposing a project of regional significance (as described in NRS 278.02542), a minimum of 750 feet;
      - d) The owner of each of the 30 separately-owned parcels nearest to the property described in the application to the extent this notice does not duplicate the notice otherwise required by this section;

- e) Any advisory board which has been established for the affected area by the City Council; and
  - f) The president or head of any registered local neighborhood organization whose organization boundaries are located within a minimum of one mile of the property described in the application.
- b. **Names Provided.** The Department of Planning and Development shall provide, at the request of the applicant, the name, address and phone number of any person notified pursuant to Subparagraph (f) above.
- c. **Additional Notice.** The Secretary may give additional notice of the hearing by expanding the area of notification or using other means of notification or both. The Director shall endeavor to provide any additional notice at least 10 days before the date of the hearing.
- d. **Signs.** Notification signs shall be posted in conformance with Section 19.18.010(D).

### 3. Planning Commission Decision

- a. A decision to recommend approval of a General Plan Amendment shall be by resolution of the Planning Commission with the affirmative votes of not less than two-thirds of the total membership of the Commission. The Planning Commission may approve, approve with conditions, or deny an application for a General Plan Amendment.
  - b. In making a decision to approve the proposed General Plan Amendment, the Planning Commission shall consider the facts presented at the public hearing and shall make the determinations contained in Section (I) of this subchapter. The Planning Commission may consider recommending the amendment of only a portion of the land described in the application or amend all or a portion of the application to a more restrictive land use category.
  - c. Following the hearing, the Planning Commission shall make its decision to either recommend approval or denial of the application.
4. **Notice of Planning Commission Decision.** Following the date of its decision, the Planning Commission shall transmit a report of its recommendation to the City Council. The report shall recite, among other things, the facts and reasons which, in the opinion of the Commission, make the approval or denial of the Amendment necessary to carry out the provisions and general purposes of this Title. A copy of the report shall be mailed to the applicant, agent, or both, at the address(es) shown on the application filed with the Secretary of the Planning Commission. A copy of the report shall also be filed with the City Clerk, acting as agent for the City Council.

### G. Burden of Proof

The applicant bears the burden of proof to establish that the approval of a General Plan Amendment is warranted.



## H. City Council Public Hearing and Action

1. **Hearing.** Subject to the provisions of Section 19.18.030(C)(7), the City Council shall consider a proposed General Plan Amendment and the recommendation of the Planning Commission thereon at the next available meeting following the receipt of the recommendation.
2. **City Council Action**
  - a. **Decision.** The City Council may approve, approve with conditions, or deny a proposed General Plan Amendment. In making a decision to approve the proposed General Plan Amendment, the City Council shall consider the recommendation of the Planning Commission and the facts presented at the public hearing. The City Council may consider the amendment of only a portion of the land described in the application or may amend all or a portion of the application to a more restrictive land use category.
  - b. **Change to More Restrictive Category.** If at the Council hearing, the applicant proposes amending the application to a more restrictive land use category, the City Council has the option to refer the application back to the Planning Commission for consideration.
  - c. **Significant Changes.** If the applicant proposes significant changes to the application during the hearing or if new information is presented that significantly changes the nature and scope of the application, the request should be referred back to the Planning Commission for consideration.
3. **Notice of City Council Decision.** Following the hearing on a proposed General Plan Amendment, the City Council shall reach a decision concerning the proposal. The decision shall include reasons for the decision and, if the decision is to approve the Amendment, any modifications, conditions or limitations that the Council may impose. Written notice of the decision shall be provided to the applicant, agent or both. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date that notice of the decision is filed with the City Clerk.

## I. General Plan Amendment - Determinations

In order to approve a proposed General Plan Amendment, the Planning Commission and City Council must determine that:

1. The density and intensity of the proposed General Plan Amendment is compatible with the existing adjacent land use designations;
2. The zoning designations allowed by the proposed amendment will be compatible with the existing adjacent land uses or zoning districts;
3. There are adequate transportation, recreation, utility, and other facilities to accommodate the uses and densities permitted by the proposed General Plan designation; and
4. The proposed amendment conforms to other applicable adopted plans and policies.

**19.18.040 REZONING****A. Purpose**

The purpose of this subchapter is to set forth the procedures by which the Planning Commission and City Council will periodically review and amend the Official Zoning Map Atlas of the City to ensure that it meets the goals and objectives of the General Plan and related land use policies and plans.

**B. Authority**

Whenever public necessity, safety and general welfare may require, the City Council may, upon recommendation by the Planning Commission, rezone any parcel or area of land within the City from one zoning district to another when the rezoning will conform to the General Plan and the requirements of Section K of this subchapter.

**C. Minimum Site Requirements**

Property which is proposed to be rezoned to the following zoning districts must meet the minimum criteria denoted below in order to be considered for rezoning, except that a minimum site area requirement may be waived in a particular case by the City Council.

1. **R-CL District.** Rezoning parcel must be an infill parcel which has a maximum site area of three acres, is surrounded by existing R-CL development and does not lend itself to R-PD development.
2. **R-MHP District.** Minimum site area of five acres.
3. **P-C District.** Minimum site area of three thousand acres.
4. **C-PB District.** Minimum site area of twenty acres.
5. **PD District.** Minimum site area of five acres.

**D. Application - General**

1. **Application Form.** An application to rezone property shall be on a form provided by the Department of Planning and Development. The application shall be signed, notarized and acknowledged by the owner of record of each parcel of property. The application shall be filed with the Secretary of the Planning Commission at the office of the Department of Planning and Development.
2. **Initiation of Application.** An application for a rezoning may be initiated by the Planning Commission or by the City Council, or by means of an application filed by the owner(s) of record of each parcel of property proposed for rezoning.

3. **Other Governmental Ownership.** With respect to property which is owned by the State of Nevada or the United States of America, a rezoning application is sufficient if it is signed and acknowledged by a prospective purchaser of that property who has entered into a contract with the governmental entity to obtain ownership of the property.
4. **Non-Property Owner.** A rezoning application is sufficient if it is signed and acknowledged by a lessee, a contract purchaser or an optionee of the property for which the rezoning is sought. However, interest in that property must exist in a written agreement with the owner of record, attached to which is a copy of the rezoning application and in which the owner of record has authorized the lessee, contract purchaser or optionee to sign the application. The agreement must further stipulate that the owner of record consents to the filing and processing of the application and agrees to be bound by the requested rezoning.
5. **Multiple Ownership.** In the case of multiple ownership of a parcel, only one of the owners of record shall be required to sign the application. A list of all other owners shall be provided with the application.
6. **Contiguous Land.** Except with respect to rezoning applications initiated by the Planning Commission or the City Council, all of the land in the application shall be contiguous with at least one common point.

#### **E. Application - Specific Requirements**

1. **Pre-Application Conference.** Before submitting an application to rezone, the owner or authorized representative shall engage in a pre-application conference with the staff of the Department of Planning and Development to discuss preliminary land planning, including land use relationships, density, transportation systems, infrastructure facilities and landscaping and open space provisions.
2. **R-PD District.** In connection with the pre-application conference, the owner or authorized representative shall submit a concept site development plan, which is subject to design review and approval by the Director to ensure compliance with this zoning classification. A site plan that conforms to the requirements of the design review and Subchapter 19.18.050 shall be submitted concurrently with any application for rezoning to an R-PD District.
3. **PD District.** A site development plan or concept plan, as required by Subchapters 19.06.050, shall be submitted concurrently with any application for rezoning to a PD District.
4. **P-C District.** A concept plan and other documentation specified in Section 19.06.030(E) shall be submitted concurrently with any application for rezoning to a P-C District.

## **F. Successive Applications**

- 1. Previously Denied Applications.** An application to rezone a parcel in which all or any part was the subject of a previous application for rezoning to the same zoning classification, to a less restrictive classification or for the same use or one of a similar density which has been denied or which has been withdrawn subsequent to the noticing of a public hearing shall not be accepted until the following periods have elapsed between the date of the denial or withdrawal and the date of the meeting for which the proposed application would be scheduled in the ordinary course:
  - a. After the first denial or withdrawal - one year.
  - b. After the second or a subsequent denial or withdrawal - two years.
- 2. Previously Withdrawn Applications.** An application for a Rezoning concerning all or any part of a previous application for a Special Use Permit or a Variance for the same use, a similar use or a less restrictive use which has been denied or which has been withdrawn subsequent to the noticing of a public hearing shall not be accepted until the time periods described in Subsection 1, above, have elapsed.
- 3. Applications Withdrawn Without Prejudice.** The time periods described in Subsections 1 and 2 above, and that otherwise would become effective because of the withdrawal of an application, shall not become effective if, after consideration of the timing and circumstances of the withdrawal, the Planning Commission or the City Council specifically approves the withdrawal without prejudice.

## **G. Request for Abeyance**

Any applicant who wishes to have an application held in abeyance following the notice and posting of the agenda of the Planning Commission or the City Council shall state good cause for the request. Good cause shall be more than mere inconvenience to the applicant or lack of preparation.

## **H. Planning Commission Public Hearing and Action**

- 1. Hearing.** The Planning Commission shall hold a public hearing when considering any application for rezoning of property.
- 2. Notice**
  - a. **Notice Provided.** Notice of the time, place and purpose of the hearing must be given at least 10 days before the hearing by:
    - 1) Publishing the notice in a newspaper of general circulation within the City;
    - 2) Mailing a copy of the notice to:
      - a) The applicant;

- b) Each owner of real property located within a minimum of 750 feet of the property described in the application;
  - c) Each tenant of any mobile home park that is located within 750 feet of the property described in the application;
  - d) The owner of each of the 30 separately-owned parcels nearest to the property described in the application to the extent this notice does not duplicate the notice otherwise required by this section;
  - e) Any advisory board which has been established for the affected area by the City Council; and
  - f) The president or head of any registered local neighborhood organization whose organization boundaries are located within a minimum of one mile of the property described in the application.
- b. **Names Provided.** The Department of Planning and Development shall provide, at the request of the applicant, the name, address and phone number of any person notified pursuant to Subparagraph (f) above.
- c. **Additional Notice.** The Secretary may give additional notice of the hearing by expanding the area of notification or using other means of notification or both. The Director shall endeavor to provide any additional notice at least 10 days before the date of the hearing.
- d. **Signs.** Notification signs shall be posted in conformance with Section 19.18.010 (D).

### 3. Planning Commission Decision

Following the public hearing or hearings, the Planning Commission shall make its recommendations concerning the application for rezoning. The recommendation may be for approval, approval with conditions, or denial. In considering whether to recommend approval or denial of an application, the Planning Commission may, when it appears necessary or expedient, consider the rezoning of only a portion of the land described in the application for rezoning, or it may recommend that all or a portion of the property be rezoned to a more restrictive classification.

### 4. Notice of Planning Commission Decision

Following the date of the Planning Commission decision, a report of its findings and decision shall be forwarded to the City Council. The report shall recite, among other things, the facts and reasons which, in the opinion of the Commission, make the approval or the denial of the rezoning necessary or appropriate to carry out the provisions and general purposes of this Title. Written notice of the decision shall be provided to the applicant, agent, or both.

## **I. Burden of Proof**

The applicant bears the burden of proof to establish that the approval of the rezoning is warranted.

## **J. City Council Public Hearing and Action**

1. **Hearing.** The City Council shall consider the proposed rezoning and the recommendation of the Planning Commission at the next available meeting following the receipt of the recommendation.
2. **City Council Decision**
  - a. **Decision.** The City Council may approve, approve with conditions, or deny an application for a rezoning. In considering whether to approve or deny an application, the City Council may consider the rezoning of only a portion of the land described in the application for rezoning or amend all or a portion of the application to a more restrictive zoning classification.
  - b. **Change to More Restrictive Zoning.** If, at the public hearing, the applicant proposes amending the rezoning application to a more restrictive zoning classification, the City Council may act on the request or refer the application back to the Planning Commission for consideration.
  - c. **Significant Changes to Application.** If the applicant proposes significant changes to the application during the hearing, or if new information is presented that significantly changes the nature and scope of the application, the request should be referred back to the Planning Commission for consideration.
3. **Notice of City Council Decision.** Following the hearing on a proposed rezoning, the City Council shall reach a decision concerning the proposal. The decision shall include the reasons for the decision and, if the decision is to approve the rezoning, any modifications, conditions or limitations that the Council may impose. Written notice of the decision shall be provided to the applicant or his agent, or both. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date that notice of the decision is filed with the City Clerk.

## **K. Rezoning Determinations—Approval**

In order to approve a proposed rezoning, the Planning Commission or City Council must determine that:

1. The proposal conforms to the General Plan.
2. The uses which would be allowed on the subject property by approving the rezoning will be compatible with the surrounding land uses and zoning districts.

3. Growth and development factors in the community indicate the need for or appropriateness of the rezoning.
4. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed zoning district.

#### **L. Rezoning Determinations—Denial or Limited Approval**

In order to: (1) Deny a proposed rezoning which conforms to the General Plan as to use or is within the range of density allowable under the General Plan; or (2) Over the applicant's objection, approve the application for a lesser density or for a more restrictive zoning classification than requested, the Planning Commission or City Council must determine that the proposed rezoning is inconsistent with other elements of the General Plan or is incompatible with the surrounding development in the area.

#### **M. Site Development Plan**

The Planning Commission and the City Council may, as a part of an approval motion, reserve the right to review any subsequent Site Development Plan for the site.

#### **N. Authorization to Proceed**

Approval of a rezoning application by the City Council constitutes a declaration of intent to amend the Official Zoning Map Atlas of the City to reflect the zoning district approved for the property. Such approval authorizes the applicant to proceed with the process to develop and/or use the property in accordance with the development and design standards and procedures of all City departments and in conformance with all requirements and provisions of the City of Las Vegas Municipal Code.

#### **O. Rezoning Procedures**

1. **Resolution of Intent.** Before the City Council adopts an ordinance to effectuate a rezoning, the Council may adopt a Resolution of Intent to reflect the Council's approval of the rezoning. Such a Resolution of Intent is binding upon the City Council in accordance with its terms.
2. **Finalizing Rezoning by Ordinance.** The final step in the rezoning process is the adoption of a rezoning ordinance in which the zoning classification of one or more parcels is formalized.
3. **Changes.** No substantial change may be made to a development or to the rezoning approval which authorized that development without the approval of the City Council. This approval requirement applies to the rezoned parcel both before and after the adoption of an ordinance rezoning that parcel.

4. **Termination of Rezoning Approval Without Time Limit.** If development does not occur in a timely manner or if conditions in the area change subsequent to the original approval of a rezoning that is not subject to a time limit, the City Council may schedule a hearing to reconsider the Resolution of Intent. At such time, the Council may rescind the Resolution of Intent or may change the conditions of approval. In addition, if such a rezoning approval no longer conforms to the use and density classification of the General Plan, the City may notify the property owner that the rezoning must be exercised within one year. If, within that period, the zoning approval is not exercised by means of the recordation of a final subdivision map or by the commencement of actual construction, the approval terminates.
5. **Extension of Time-General Requirements.** If the approval of a Resolution of Intent is subject to a time limit, the approval expires at the end of that time limit unless the City Council extends the approval period. Extension of an approval period, or reinstatement and extension, may be granted only if:
  - a. Application therefore is made no later than six months after the approval has expired;
  - b. The applicant demonstrates good cause; and
  - c. The applicant conforms to the additional requirements set forth in Subsection 6 below.
6. **Extensions of Time-Additional Requirements.** If a time-limited zoning approval that is sought to be extended (or reinstated and extended) continues to conform to the use and density classifications of the General Plan, the applicant must demonstrate that the rezoning remains consistent with the surrounding area and the pattern of development in the area. If the rezoning sought to be extended (or reinstated and extended) no longer conforms to the use and density classifications of the General Plan, the extension of time, if granted, shall be limited to a one-year period. If, within that period, the zoning approval is not exercised by means of the recordation of a final subdivision map or by the commencement of actual construction, the approval terminates.

## **P. General Plan Amendment**

If a proposed rezoning will not conform as to use or density, the application may not be approved unless the General Plan is amended first to accommodate the proposed rezoning. The applicant may submit an application to amend the General Plan and an application for rezoning at the same time, and the applications may be heard concurrently.



**19.18.050.SITE DEVELOPMENT PLANS****A. Purpose**

The purpose of the Site Development Plan review process is to ensure that each development:

1. Is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards and other regulations, plans and policies of the City;
2. Contributes to the long term attractiveness of the City;
3. Contributes to the economic vitality of the community by ensuring compatibility of development throughout the community; and
4. Contributes to the public safety, health and general welfare.

**B. Applicability**

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1. **Site Development Plans Required.** Except as otherwise provided in this Section (B), a Site Development Plan is required for all development in the City.
2. **Exemptions.** Except where the City Council or Planning Commission has specifically reserved the right of review through a prior action, the following activities and improvements do not require a Site Development Plan review:
  - a. Single-family or duplex dwelling units, except as provided in Paragraph (4) below;
  - b. Residential accessory buildings;
  - c. On-site signs, walls and fences;
  - d. Demolition of a structure;
  - e. Sculptures, fountains and other similar improvements;
  - f. Normal repairs and maintenance of an existing building or structure;
  - g. Activities and improvements undertaken in conjunction with a Temporary Commercial Permit; and
  - h. Alterations which do not affect the external dimensions of an existing building or structure, unless the alterations are made to change the use or type of occupancy within part or all of the altered building or structure.
3. **Planned Developments.** All Site Development Plans for a PD (Planned Development) District shall conform to the approved Master Development Plan and Development Standards for that District. The processing and review of Site Development Plans shall be in accordance with Section 19.18.050(F).

4. **Certain Conversions.** The conversion of any development from multi-family or apartment development to condominium status, or the conversion of any condominium development to a rental-only multi-family or apartment development, shall require a Site Development Plan Review.

### **C. Authority**

The Director shall have the authority to determine whether a Site Development Plan will be subject to a major review or a minor review and to approve or deny any Site Development Plans which requires a minor review. However, final approval authority shall rest with:

1. The Planning Commission, if the Commission specifically has reserved the right, through prior action, to review and maintain approval authority of any Site Development Plan; or
2. The City Council, if the Council specifically has reserved the right, through prior action, to review and maintain approval authority of any Site Development Plan, or if a member of the City Council requests a review pursuant to this Subchapter.

In approving a Site Development Plan, the Director, or if applicable, the Planning Commission or City Council, may impose conditions deemed necessary to ensure the orderly development of the site.

### **D. Design Standards**

All required Site Development Plans shall meet or exceed the minimum standards established in this Title. In addition, the City's policy document entitled "Landscape, Wall and Buffer Standards" is a resource for acceptable standards and design solutions. To the extent that such document establishes minimum requirements and standards and is formally adopted by the City Council, Site Development Plans must comply with that document.

### **E. Criteria for Review of Site Development Plans**

The review of Site Development Plans is intended to ensure that:

1. The proposed development is compatible with adjacent development and development in the area;
2. The proposed development is consistent with the General Plan, this Title, the Design Standards Manual, the Landscape, Wall and Buffer Standards, and other duly-adopted city plans, policies and standards;
3. Site access and circulation do not negatively impact adjacent roadways or neighborhood traffic;
4. Building and landscape materials are appropriate for the area and for the City;

5. Building elevations, design characteristics and other architectural and aesthetic features are not unsightly, undesirable or obnoxious in appearance; create an orderly and aesthetically pleasing environment; and are harmonious and compatible with development in the area;
6. Appropriate measures are taken to secure and protect the public health, safety and general welfare.

#### **F. Minor Review of Site Development Plans**

1. **Minor Review Decisions.** Site Development Plans requiring Minor Reviews may be approved administratively by the Director.
2. **Minor Review Process.** A minor Development Review is initiated by the submission of a Site Development Plan Review application or an application for a Building Permit. If submitted as part of a Building Permit application, issuance of the Building Permit shall constitute approval of the Minor Review and no further action is required.
3. **Review By City Council.** The administrative approval of a Site Development Plan pursuant to this Section (F) shall be final action unless, within 10 days following the approval, a member of the City Council files with the Director a written request for the Council to review the approval. In the event such a request is filed, the Council shall have final authority to approve, deny or modify the Site Development Plan.

#### **G. Major Review of Site Development Plans**

1. **Major Review.** A Major Review of a Site Development Plan is required if:
  - a. The Planning Commission or City Council, through prior action, has determined that the proposed project or improvement shall be processed as a Major Review;
  - b. The proposed development contains a building which is four stories or greater in height; or
  - c. The Director determines that the proposed development could significantly impact the land uses on the site or on surrounding properties.
2. **Major Review Process**
  - a. **Application.** An application for a Major Development Review shall be filed in the Department of Planning and Development. The application shall be signed and notarized by the owner of the property where the development is to occur or by the owner's authorized agent. A Site Development Plan requiring a Major Review may not be approved as part of a Building Permit Application.

- b. Drawings and Plans Required.** Plans describing the proposed development of the property shall be submitted as required by the Director. Complete working drawings are not necessary; however, proposed structures (including building elevations), streets, driveways and access points, on-site circulation and parking, walls, landscaping, building materials, dumpster locations and other improvements must be shown. Preliminary drawings must contain sufficient information to permit the determination of compliance with good planning practices, applicable standards and ordinances. Floor plans are not normally required. For any development site where 20% or more of the aggregate site has a slope of natural grade above 4%, a cross section must be submitted. Each cross section must extend a minimum of 100 feet beyond the limits of the project at each property line, showing the location and finish floor elevations of adjacent structures; the maximum grade differentials; and the elevations of existing and proposed conditions.
- c. Circulation to Departments.** After an application has been determined complete, it shall be forwarded to interested City Departments for their respective comments, recommendations and requirements.
- d. Planning Commission Action.** After interested City Departments have had the opportunity for comment and the Department of Planning and Development has conducted its review, each application for Major Review shall be presented to the Planning Commission. If, in the opinion of the Planning Commission, the proposed development could have a negative impact upon surrounding and nearby uses, the item may be delayed or held in abeyance for notification of surrounding property owners to the extent deemed necessary by the Planning Commission.
- e. Planning Commission Decision.** In making its final decision, the Planning Commission shall consider the recommendation of the City Departments, the evidence presented at the hearing and the criteria set forth in Section (F) of this subchapter. The Planning Commission may approve, approve with conditions, or deny an application for a Major Development Review. All actions by the Planning Commission are final unless:

  - 1) An appeal is filed by the applicant in accordance with Paragraph (f) below;
  - 2) Otherwise required by prior action of the City Council; or
  - 3) In the case of Planning Commission approval, a member of the City Council files with the City Clerk, within 10 days following the approval, a written request for the Council to review the approval.
- f. Appeal of Planning Commission Action.** If the applicant is aggrieved by the Planning Commission's denial of an application, or by any condition imposed upon an approval, the applicant may appeal the decision to the City Council by written request. The appeal must be filed in the Office of the City Clerk within 10 days after the Planning Commission's action.
- g. City Council Action.** All Major Development Reviews requiring review by the City Council shall be forwarded to the Office of the City Clerk and shall be placed on the next available City Council agenda.

- h. City Council Decision.** In making its final decision, the City Council shall consider the recommendation of the City Departments and the Planning Commission, the evidence presented at the hearing and the criteria set forth in Section (F) of this subchapter. The City Council may approve, approve with conditions, or deny an application for a Major Development Review. All actions by the City Council are final. Written notice of the decision shall be provided to the applicant, agent or both. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

## **H. Amendment to an Approved Site Development Plan**

After a Site Development Plan has been approved, any request to amend the approved Plan shall be submitted to the Department of Planning and Development. Upon receipt of an amendment request, the Director shall determine if the amendment is a minor or major change.

- 1. Minor Amendment.** Minor relocation or reorientation of buildings, lot lines and/or easements, relocation of internal access and circulation; relocation or rearrangement of parking areas, reduction of established square footage and/or density limitations by 10 percent or less, and increase of landscape or building setbacks are considered minor amendments and may be approved administratively. However, the Director has no authority to approve any:

  - a.** Alteration in the basic relationship of the proposed development to adjacent property;
  - b.** Material change in the uses or types of uses permitted;
  - c.** Material increase in the maximum density, floor area, or height;
  - d.** Material decrease in the amount of off-street parking, unless the amount of parking remains sufficient and conforms to the requirements of this Title;
  - e.** Reduction in the minimum yards or setbacks by more than 10 percent; or
  - f.** Material change in the characteristics of the elevational drawings or Site Development Plan as approved.
- 2. Major Amendment.** Any amendment which does not qualify as a Minor Amendment shall be deemed to be considered a Major Amendment and shall be processed in the same manner as a new Site Development Plan application.

## **I. Revocation or Modification**

- 1. Notice.** The authority responsible for the final approval of a Site Development Plan may hold a hearing to revoke or modify an approved Site Development Plan. In cases where the Director was the approval authority, the Director may issue a written notice of hearing concerning a possible revocation or modification of the Plan, or may refer the item to the Planning Commission. At least ten days prior to any hearing, written notice of the hearing shall be delivered to the owner, developer, or both. Notice may be delivered in person or by certified mail, return receipt requested, to the address shown in the records of the Clark County Assessor.

2. **Grounds.** A Site Development Plan approval may be revoked or modified by the reviewing authority for cause, including a finding of one or more of the following:
  - a. That the Site Development Plan approval was obtained by misrepresentation or fraud;
  - b. That the development is not in compliance with one or more of the conditions of approval;
  - c. That the development is in violation of any State or local law, ordinance or regulation.
3. **Notice of Decision.** Written notice of the decision shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

#### **J. Expiration**

Except as otherwise specified in connection with its approval, a Site Development Plan which is not exercised within two years after the date of approval shall be void, unless an extension of time is granted. For purposes of this Section (J), a Site Development Plan is exercised upon the issuance of a building permit for the principal structure on the site.

**19.18.060 SPECIAL USE PERMIT****A. Purpose**

The purpose of the subchapter is to establish a Special Use Permit process to ensure that a proposed use is conducted in a manner that is harmonious and compatible with uses located on the same or surrounding properties. The process recognizes that, within a given zoning district, certain uses may be appropriate and compatible in some locations but not in others. The Special Use Permit process allows a site-specific inquiry into the compatibility of a proposed use at a particular location, taking into account: the characteristics of the site and the surroundings; the relevant zoning and planning principles; and the input of the Planning Commission, City Council and other interested parties.

**B. Authority**

The City Council, upon recommendation by the Planning Commission, shall have the authority to approve, approve with conditions, or deny an application for a Special Use Permit.

**C. Application**

A pre-application conference shall be required prior to the submittal of any application for a Special Use Permit. An application for a Special Use Permit shall be made on a form to be provided by the Department of Planning and Development. The application shall be filed with the Secretary of the Planning Commission at the office of the Department of Planning and Development. The application shall be signed, notarized and acknowledged by the record owner of the property for which the Special Use Permit is sought, provided however, that:

1. **Other Governmental Ownership.** With respect to property which is owned by the State of Nevada or the United States of America, a Special Use Permit application is sufficient if it is signed and acknowledged by a prospective purchaser of that property who has entered into a contract with the governmental entity to obtain ownership of the property;
2. **Non-Owner Applicant.** A Special Use Permit application is sufficient if it is signed and acknowledged by a lessee, a contract purchaser or an optionee of the property for which a Special Use Permit is sought. However, interest in that property must exist in a written agreement with the owner of record attached to which is a copy of the Special Use Permit application and, in which, the owner of record has authorized the lessee, contract purchaser or optionee to sign the application. The agreement must further stipulate that the owner of record consents to the filing and processing of the application and agrees to honor and be bound by the requested Special Use Permit if it is approved and by any conditions of approval attached thereto.

3. **SUP for Gaming.** Applications for a Special Use Permit to allow gaming pursuant to the requirements of LVMC 6.40.140 (C) and LVMC 6.40.150 (E) may be signed and acknowledged by a lessee of the premises; provided however, that a lessee/applicant must provide copies of lease agreements to show that there are no prohibitions therein to conducting gaming operations on the leased premises. The application need only be accompanied by the applicable lease documents, the floor plan location of the slot machines and the requisite fee.

#### **D. Successive Applications**

1. **Previous SUP Application.** An application for a Special Use Permit, of which all or any part of a previous application for the same use, a similar use or a less restrictive use has been denied, or of which a previous application has been withdrawn subsequent to the noticing of a public hearing thereon, shall not be accepted until the following periods will have elapsed between the date of the denial or withdrawal and the date of the meeting for which the proposed application would be scheduled in the normal course:
  - a. After the first denial or any withdrawal after public notice has been given – one year.
  - b. After the second or subsequent denial or withdrawal after public notice has been given - two years.
2. **Previous Similar Application.** An application for a Special Use Permit concerning all or any part of a previous application for a Variance or Rezoning for the same use, a similar use or a less restrictive use which has been denied, or concerning a previous application which has been withdrawn subsequent to the noticing of a public hearing, shall not be accepted until the periods described in Subsection 1 have elapsed.
3. **Withdrawal Without Prejudice.** The time periods that are described in Subsections 1 and 2 above, and that otherwise would become effective because of the withdrawal of an application, shall not become effective if, after consideration of the timing and circumstances of the withdrawal, the Planning Commission or the City Council specifically approves the withdrawal without prejudice.

#### **E. Drawings and Plans Required**

1. **General.** A Site Development Plan and a floor plan of the site which is the subject of the Special Use Permit application shall be submitted concurrently with any application for a Special Use Permit. Guidelines for the preparation of the site plan, floor plans and building elevations are available in the Department of Planning and Development. Complete working drawings are not necessary; however, proposed improvements, streets, landscape areas and similar items must be shown. Preliminary drawings must contain sufficient information to permit the determination of compliance with good planning practices, applicable standards and ordinances.



- 2. Non-stealth Design Wireless Communication Facility.** In addition to the information required by Subsection (1) of this Section, the applicant for a Special Use Permit for a non-stealth design wireless communication facility shall provide the Department with the following:
- a. An inventory of all of the communication providers (or antenna tower owners if the providers are not yet known) for existing antenna towers that are within the City and within 1500 feet of the border thereof, including specific information about the location, height and design of each such tower. This information is required with the first Special Use Permit application, but may be waived (in conjunction with subsequent applications) at the discretion of the Director if the applicant provides a written statement indicating that no new antenna towers have been constructed since the initial application.
  - b. A map of all existing communication towers, buildings, utility poles or other structures over 60 feet in height within 1000 feet of the proposed tower; and
  - c. A photo simulation which identifies the potential visual impacts of the antenna tower, especially from public areas and residences. This requirement may be waived if the Director determines that the visual impacts would be minimal.
  - d. Assurance that the antenna planned for the proposed antenna tower cannot be accommodated as a stealth design wireless communication facility, or on an existing or approved tower, building or other structure within 1000 feet of the proposed location based on the communications grid established or to be established by the communication provider(s). Reasons which may support a finding that a proposed antenna cannot be accommodated as a stealth design wireless communication facility, or on an existing or approved tower, building or other structure include:
    - 1) That the Director has determined that co-location on an existing or approved tower, building or other structure would be unsightly;
    - 2) That the owner of the existing tower, building or structure is unwilling to agree to co-location or to provide adequate space on the property for the equipment necessary to support communication antennas;
    - 3) That the structural capacity for the antenna on the existing tower, building or other structure would be inadequate;
    - 4) That the new antenna would interfere with existing or other planned equipment on the existing or approved tower, building or other structure;
    - 5) That the existing or approved towers, buildings or other structures in the area are not high enough support the antenna; and
    - 6) That it is commercially impracticable or technically unfeasible to locate on the existing tower, building or other structure for other reasons. To substantiate these reasons, the applicant shall submit satisfactory written evidence such as correspondence, agreements, contracts, etc., that alternative towers, buildings or other structures are not available for use in the area where the antenna is to be located.

- e. In the case of the proposed tower greater than 60 feet in height, a description of the applicant's efforts to design for and accommodate facilities for other communication providers.

## **F. Request for Abeyance**

Any applicant who wishes to have an application held in abeyance following the notice and posting of the agenda of the Planning Commission or the City Council shall state good cause for the request. Good cause shall be more than mere inconvenience to the applicant or lack of preparation.

## **G. Planning Commission Public Hearing and Action**

1. **Hearing.** The Planning Commission shall hold a public hearing on each application for a Special Use Permit within 65 days after the application is properly filed.
2. **Notice**
  - a. **Notice Provided.** Notice of the time, place and purpose of the hearing must be given at least 10 days before the hearing by:
    - 1) Publishing the notice in a newspaper of general circulation within the City;
    - 2) Mailing a copy of the notice to:
      - a) The applicant;
      - b) Each owner of real property located within a minimum of 500 feet of the property described in the application, or in the case of an application to authorize the sale of alcoholic beverages, a minimum of 1500 feet;
      - c) Each tenant of any mobile home park that is located within 300 feet of the property described in the application, or in the case of an application to authorize the sale of alcoholic beverages, a minimum of 1500 feet;
      - d) The owner of each of the 30 separately-owned parcels nearest to the property described in the application to the extent this notice does not duplicate the notice otherwise required by this section;
      - e) Any advisory board which has been established for the affected area by the City Council; and
      - f) The president or head of any registered local neighborhood organization whose organization boundaries are located within a minimum of one mile of the property described in the application.

- b. **Names Provided.** The Department of Planning and Development shall provide at the request of the applicant, the name, address and phone number of any person notified pursuant to subparagraph (f) above.
  - c. **Additional Notice.** The Secretary may give additional notice of the hearing by expanding the area of notification or using other means of notification or both. The Director shall endeavor to provide any additional notice at least 10 days before the date of the hearing.
  - d. **Signs.** Notification signs shall be posted in conformance with 19.18.010 (D) and NRS Chapter 278.
- 3. **Hearing.** The Planning Commission shall conduct a public hearing on the application. In its discretion and for good cause, the Planning Commission may hold the application in abeyance for further study. Following the hearing or hearings, the Planning Commission shall make its recommendation to approve, approve with conditions, or deny the application for Special Use Permit. The recommendation shall be based upon evidence that makes the grant or denial of the Special Use Permit appropriate.
  - 4. **Conditions of Approval Recommendation.** In recommending the approval of a Special Use Permit, the Planning Commission may impose any conditions, restrictions or limitations as the Commission may determine to be necessary to meet to the general purpose and intent of this Title and to ensure that the public health, safety and welfare are being maintained.
  - 5. **Notice of Planning Commission Decision.** Written notice of the Planning Commission's decision shall be provided to the applicant, agent, or both.

## **H. Precedents**

The fact that a Special Use Permit for the same or similar use has been granted previously for the subject property or nearby property is a factor to be considered, but is not determinative.

## **I. Burden of Proof**

The applicant bears the burden of proof to establish that the approval of a Special Use Permit is warranted.

## **J. Appeals and City Council Review**

- 1. **Appeal of Denial.** A decision by the Planning Commission to deny a Special Use Permit application becomes final and effective at the expiration of 10 days after the date of the decision unless, within that period, the applicant appeals the decision by written request filed with the City Clerk.
- 2. **Final Action by City Council Concerning Approval.** A decision by the Planning Commission to approve a Special Use Permit application constitutes a recommendation to the City Council. The City Council shall make the final decision concerning the application.

**K. City Council Public Hearing**

1. **Notice and Hearing.** The City Council shall conduct a public hearing on all Special Use Permit applications which are appealed or are forwarded to the Council for final action. Public notice of the hearing shall be mailed at least 10 days before the hearing to the property owners who were notified by mail of the Planning Commission hearing.
2. **City Council Decision.** The City Council may approve, approve with conditions, or deny a Special Use Permit application. In so doing, the City Council shall consider the recommendation of the Planning Commission and the evidence presented at the public hearing. Action by the City Council is final.
3. **Notice of the City Council Decision.** The City Council shall provide written notice of its decision, which shall include the reasons for the decision and if the decision is to approve the Special Use Permit, any modifications, conditions or limitations that the City Council may impose. The notice shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

**L. Special Use Permit - Determinations**

1. In order to approve a proposed Special Use Permit application, the Planning Commission or City Council must determine that:
  - a. The proposed use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan;
  - b. The subject site is physically suitable for the type and intensity of land use being proposed;
  - c. Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use; and
  - d. Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety and welfare or the overall objectives of the General Plan.
2. In order to approve a Special Use Permit application for a non-stealth design wireless communication facility, the Planning Commission or City Council must determine, based upon satisfactory evidence, that:
  - a. Within an area designated as a Historic Preservation District, the proposed facility has first been reviewed by the Historic Preservation Commission.
  - b. The antenna planned for the proposed facility cannot be accommodated as part of a stealth design communication facility, or on an existing or approved tower, building or other structure, within 1000 feet of the proposed location based on the communications grid established or to be established by the communication provider.  
Reasons which may support such a determination include:

- 1) That the co-location on an existing or approved tower, building or other structure would be unsightly;
  - 2) That the owner of the existing tower, building or structure is unwilling to agree to co-location or to provide adequate space on the property for the equipment necessary to support communication antennas;
  - 3) That the structural capacity for the antenna on the existing tower, building or other structure would be inadequate;
  - 4) That the new antenna would interfere with existing or other planned equipment on the existing or approved tower, building or other structure;
  - 5) That the existing or approved towers, buildings or other structures in the area are not high enough to support the antenna; and
  - 6) That it is commercially impracticable or technically unfeasible to locate on the existing tower, building or other structure for other reasons.
- c. In the case of a proposed tower greater than 60 feet in height, the applicant has made satisfactory efforts to design for an accommodate facilities for other communication providers.

#### **M. Amendments to an Approved Special Use Permit**

A Special Use Permit is limited to the uses and structures which are shown on the approved site development plan and are consistent with any conditions of approval. Any request to amend or modify an approved Special Use Permit shall be submitted to the Department of Planning and Development. Upon receipt of such a request, the Director shall determine if the request constitutes a minor amendment or a major amendment. Minor amendments may be approved administratively. A major amendment requires approval by the City Council, after a recommendation by the Planning Commission. Minor and major amendments are categorized as follows:

**1. Minor Amendments.** A minor amendment includes a:

- a. Relocation or reorientation of buildings which does not alter the basic relationship to adjacent property;
- b. Minor adjustment in lot lines and/or easements;
- c. Minor rearrangement of internal access and circulation;
- d. Relocation or rearrangement of parking areas;
- e. Change in the approved square footage or density that does not represent an increase of more than 10 percent;

- f. Change in landscaping or building setbacks that does not represent a significant decrease.
2. **Major Amendment.** A major amendment includes any change which does not qualify as a minor amendment.

## **N. Premature Use of Property**

The issuance of a building permit or business license for a use that requires a Special Use Permit, before Special Use Permit is approved, does not replace or otherwise affect the Special Use Permit requirement.

## **O. Revocation**

1. **Notice.** The City Council may hold a hearing to revoke or modify a Special Use Permit. At least 10 days prior to any hearing, written notice of the hearing shall be delivered to the owner, developer, or both. Notice may be delivered in person or by certified mail, return receipt requested, mailed to the address shown in the records of the Clark County Assessor.
2. **Findings.** A Special Use Permit may be revoked or modified for cause, including a finding of one or more of the following:
  - a. That the Special Use Permit was obtained by misrepresentation or fraud;
  - b. That conditions have changed and the use or development is no longer compatible with surrounding land uses or the General Plan;
  - c. That the use or development is not in compliance with one or more of the conditions of approval;
  - d. That the use permitted by the Special Use Permit is in violation of any statute, ordinance, law or regulation.
3. **Notice of Decision.** Written notice of the decision shall be provided to the owner, developer or agent.

## **P. Termination**

1. A Special Use Permit which cannot be exercised except upon construction of a new building, and which is not exercised within two years after approval, shall be void, unless the City Council grants an extension of time upon a showing of good cause.
2. A Special Use Permit which does not require the construction of a new building in order to be exercised, and which is not exercised within one year after approval shall be void, unless the City Council grants an extension of time upon a showing of good cause.

3. For any Special Use Permit approved before January 1, 2000, which expires before an extension is granted, the City Council may reinstate the approval within the six-month period following the expiration date and grant an extension of time if the Council is satisfied that there has not been a material change of circumstances such that the Special Use Permit is no longer warranted.
4. A Special Use Permit shall be void without further action if:
  - (a) The Special Use Permit was issued for alcoholic beverage use and such use ceases for one hundred and eighty days or more; or
  - (b) The Special Use Permit was issued for a use other than alcoholic beverage use and such use ceases for twelve months or more.
5. For purposes of this Section (P), a Special Use Permit is exercised upon approval of a business license to conduct the activity, if one is required, or, otherwise, upon the issuance of a certificate of occupancy or approval of a final inspection.

## 19.18.070 VARIANCE

### A. Purpose

The purpose of this subchapter is to establish a procedure to allow for an adjustment of certain specific requirements of this Title, as permitted by State law.

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### B. Scope and Limitations

Pursuant to NRS Chapter 278 and this subchapter, the Planning Commission and the City Council have the authority to act upon Variance applications as set forth in this subchapter and as they deem appropriate. Variance applications shall initially be heard by the Planning Commission. Where a Variance application is proposed in connection with another application to be heard by the Planning Commission, including an application for Special Use Permit, an application for Rezoning, or an Application for Site Development Plan Review, the Variance application shall be considered by the Planning Commission, as a separate application, in conjunction with the associated application. A Variance:

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1. Is not available to permit a use in a zoning district in which the use is not allowed, or to vary any minimum spacing requirement between uses: and
2. Shall not be granted in order to relieve a hardship which is solely personal, self-created or financial in nature.

### C. Application

An application for a Variance shall be made on a form provided by the Department of Planning and Development. This application shall be filed at the office of the Department of Planning and Development. The application shall be signed, notarized and acknowledged by the owner of record of the property for which the Variance is sought; provided however, that:

1. **Other Governmental Ownership.** With respect to property which is owned by the State of Nevada or the United States of America, a Variance application is sufficient if it is signed and acknowledged by a prospective purchaser of that property who has entered into a contract with the governmental entity to obtain ownership of the property;
2. **Non-Owner Applicant.** A Variance application is sufficient if it is signed and acknowledged by a lessee, a contract purchaser or an optionee of the property for which a Variance is sought. However, interest in that property must exist in a written agreement with the owner of record attached to which is a copy of the Variance application and in which the owner of record has authorized the lessee, contract purchaser or optionee to sign the application. The agreement must further stipulate that the owner of record consents to the filing and processing of the application and agrees to honor and be bound by the requested Variance if it is approved and by any conditions of approval attached thereto.



## D. Successive Applications

1. **Previous Variance Application.** An application for a Variance on property concerning all or any part of a previous application for the same use, a similar use or a less restrictive use which has been denied, or concerning a previous application which has been withdrawn subsequent to the noticing of a public hearing, shall not be accepted until the following periods will have elapsed between the date of the denial or withdrawal and the date of the meeting for which the proposed application would be scheduled in the normal course:
  - a. After the first denial or any withdrawal after public notice has been given – one year.
  - b. After the second or subsequent denial or withdrawal after public notice has been given - two years.
2. **Previous Similar Application.** An application for a Variance concerning all or any part of a previous application for a Special Use Permit or Rezoning for the same use, a similar use or a less restrictive use which has been denied, or concerning a previous application which has been withdrawn subsequent to the noticing of a public hearing, shall not be accepted until the periods described in this Subsection 1 have elapsed.
3. **Withdrawn Without Prejudice.** The time periods that are described in Subsection 1 and 2 above, and that otherwise would become effective because of the withdrawal of an application, shall not become effective if, after consideration of the timing and circumstances of the withdrawal, the Planning Commission or the City Council specifically approves the withdrawal without prejudice.

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## E. Request for Abeyance

An applicant who wishes to have an application held in abeyance following the notice and posting of a hearing before the Planning Commission or the City Council shall state good cause for the request. Good cause shall be more than mere inconvenience to the applicant or lack of preparation. The Planning Commission may not grant to an applicant, and the City Council may not grant to an aggrieved person, more than two continuances on the same matter, unless the Commission or Council determines, upon good cause shown, that the granting of additional continuances is warranted.

## F. Drawings and Plans Required

Plans describing the proposed development of the property shall be submitted with the application. Guidelines for the preparation of the site development plan, floor plans and building elevations are available in the Department of Planning and Development. Complete working drawings are not necessary; however, improvements, streets, landscape areas and similar items must be shown. Preliminary drawings must contain sufficient information to permit the determination of compliance with good planning practices, applicable standards and ordinances.

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**G. Public Hearing and Action**

**1. Hearing.** The Planning Commission shall hold a public hearing upon each application for a Variance within 65 days after the application is properly filed.

**2. Notice**

**a. Notice Provided.** Notice of the time, place and purpose of the hearing must be given a least 10 days before the hearing by:

1) Publishing the notice in a newspaper of general circulation within the City; and

2) Mailing a copy of the notice to:

a) The applicant;

b) Each owner of real property located within a minimum of 500 feet of the property described in the application;

c) Each tenant of any mobile home park that is located within 500 feet of the property described in the application;

d) The owner of each of the 30 separately-owned parcels nearest to the property described in the application to the extent this notice does not duplicate the notice otherwise required by this section;

e) Any advisory board which has been established for the affected area by the City Council; and

f) The president or head of any registered local neighborhood organization whose organization boundaries are located within a minimum of one mile of the property described in the application.

**b. Names Provided.** The Department of Planning and Development shall provide, at the request of the applicant, the name, address and phone number of any person notified pursuant to Paragraph (2) above.

**c. Additional Notice.** The Department may give additional notice of the hearing by expanding the area of notification or using other means of notification or both. The Department shall endeavor to provide any additional notice at least 10 days before the date of the hearing.

**3. Hearing.** The Planning Commission shall conduct a public hearing on the application. As a matter of discretion and for good cause, the Planning Commission may hold the application in abeyance for further study. Following the hearing or hearings, the Planning Commission shall make a decision to approve, approve with conditions, or deny the Variance application. The decision shall be based upon evidence that makes the grant or denial of the Variance appropriate. The decision shall either be a final decision or a recommendation, as determined in accordance with Section 19.18.070(J).

4. **Conditions of Approval Recommendation.** In approving or recommending the approval of a Variance, the Planning Commission may impose any conditions, restrictions or limitations as deemed necessary to meet the general purpose and intent of this Title and to ensure that the public health, safety and general welfare are being maintained.
- 5 **Notice of Decision.** The Planning Commission shall provide written notice of each decision on a Variance application, which shall include the reasons for the decision and, if the decision is to recommend approval of the Variance, any modifications, conditions or limitations that the Planning Commission may impose or recommend to be imposed in connection with the approval. The notice shall be provided to the owner, developer or agent.

## H. Precedents

The fact that a Variance for the same or similar use has been granted previously for the subject property or nearby property is a factor to be considered, but is not determinative.

## I. Burden of Proof

The applicant bears the burden of proof to establish that the approval of a Variance is warranted.

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## J. Appeals

1. **Denials Generally.** Except as otherwise provided in Subsection (3), a decision by the Planning Commission to deny a Variance application becomes final and effective at the expiration of 10 days after the date of the decision unless, within that period, the applicant appeals the decision by written request filed with the City Clerk. The City Council may establish a fee for the filing of an appeal, and the amount of any fee so established shall be set forth in the fee schedule.
2. **Approvals Generally.** Except as otherwise provided in Paragraph (3), a decision by the Planning Commission to approve a Variance application becomes final and effective at the expiration of 10 days after the date of the decision unless, within that period, a member of the City Council requests that the item be reviewed by the Council, or an aggrieved person appeals the decision by written request filed with the City Clerk. The City Council may establish a fee for the filing of an appeal, and the amount of any fee so established shall be as set forth in the fee schedule.
3. **Automatic Review by City Council.** In each of the following cases, the decision by the Planning Commission on a Variance application constitutes a recommendation to the City Council, and the City Council shall make the final decision concerning the application:
  - a. A Variance application that has been approved by the Planning Commission regarding a reduction in required parking or regarding an existing structure; or

- b. A Variance application, whether approved or denied by the Planning Commission, that is related to and has been filed in connection with an application for a General Plan Amendment, an application for rezoning, an application for a Special Use Permit, or an application for Site Development Plan Review that requires final action by the City Council.

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**K. City Council Public Hearing and Action**

1. **Notice.** The City Council shall conduct a public hearing on any Variance application which is appealed or forwarded to the Council for final action. The City Clerk is authorized to consolidate all appeals or requests for review that have been filed regarding a particular application, or to schedule them in sequence or otherwise, in which case the City Council may hear the items separately or consolidate them for purposes of hearing, as the Council deems appropriate. At least ten days' written notice of the hearing shall be sent to property owners who were sent notice of the public hearing conducted by the Planning Commission.
2. **Penalty.** If a structure which is the subject of a Variance application has been or is being constructed without a building permit and is in violation of any of the provisions of this Title, the City Council, in granting the Variance, may impose a penalty in an amount that does not exceed 10 percent of the value of the structure as determined in accordance with the City's Administrative Code.
3. **City Council Decision.** The City Council may review the Variance application de novo, and has the authority to reverse, modify, or confirm any action of the Planning Commission. In making a decision regarding a Variance application, the City Council shall consider the decision of the Planning Commission and the evidence presented at the public hearing and shall be guided by the statement of purpose underlying the regulation of the improvement of land expressed in NRS 278.020. Action by the City Council is final for purposes of judicial review. Except as otherwise agreed to by the person filing the appeal, the City Council must render its decision on an appeal within forty-five days.
4. **Notice of City Council Decision.** The City Council shall provide written notice of its decision, which shall include the reasons for the decision and, if the decision is to approve the Variance, any modifications, conditions or limitations that the Council may impose. The notice shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

**L. Determinations**

1. In order to recommend approval of, or to approve a Variance application, the Planning Commission or City Council must determine that the Variance is warranted both under State law and this subchapter. The minimum State law standards are set forth in Subsection 2 below.
2. Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and

exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

### **M. Premature Use of Property**

The issuance of a building permit or business license for a development or structure that requires a Variance, before a Variance is approved, does not replace or otherwise affect the Variance requirement.

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### **N. Revocation**

1. **Notice.** A Variance may be revoked or modified by the Planning Commission or the City Council, whichever body took final action to approve the Variance. Such action must be preceded by a hearing, written notice of which must be delivered to the owner, developer, or both, at least ten days prior to any hearing. Notice may be delivered in person or by certified mail, return receipt requested, mailed to the address shown in the records of the Clark County Assessor.
2. **Grounds.** A Variance may be revoked or modified for cause, including a finding of one or more of the following:
  - a. That the Variance was obtained by misrepresentation or fraud;
  - b. That the development or structure is not in compliance with one or more of the conditions of approval; or
  - c. That the development or structure permitted by the Variance is in violation of any statute, ordinance, law or regulation.
3. **Notice of Decision.** Written notice of a decision regarding the revocation or modification of a Variance shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.
4. **Appeal.** In the case of a decision by the Planning Commission to revoke or modify a Variance that was approved as final action by the Commission, the appeal provisions of Subsections (J) and (K) of this Section shall apply.

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### **O. Termination**

1. A Variance which will require the construction of a new building and which is not exercised within two years after approval shall be void, unless the applicant obtains an extension of time upon a showing of good cause. Application for an extension shall be made to the Planning Commission or City Council, whichever body took final action to approve the Variance.

2. A Variance which will not require the construction of a new building and which is not exercised within one year after approval shall be void, unless the applicant obtains an extension of time upon a showing of good cause. Application for an extension shall be made to the Planning Commission or City Council, whichever body took final action to approve the Variance.
3. For any Variance approved before January 1, 2000, which expires before an extension is granted, the Planning Commission or City Council, as the case may be, may reinstate the approval within the six-month period following the expiration date and grant an extension of time if the Commission or Council is satisfied that there has not been a material change of circumstances such that the Variance is no longer warranted.
4. A Variance to allow a use is not permitted in a particular zone shall be void without further action if the use approved by the Variance ceases for a period of twelve months or more.
5. For purposes of this Section (O), a variance is exercised upon approval of a business license to conduct the activity, if one is required, or, otherwise, upon the issuance of a certificate of occupancy or approval of a final inspection.

#### **19.18.080 ADMINISTRATIVE DEVIATION**

##### **A. Purpose**

The purpose of this subchapter is to establish a procedure (entitled an Administrative Deviation) to allow for minor adjustments of specific requirements of the Zoning Code where, because of special and unique conditions applicable to a specific lot or structure, the literal enforcement of the requirements as applied to the lot or structure would result in an unnecessary hardship. The Administrative Deviation procedure is available as an alternative to the Variance procedure, to be pursued at the option of the applicant.

##### **B. Authority**

The Director of the Department of Planning and Development shall have the authority to grant an Administrative Deviation, in accordance with the provisions of this Subchapter, to allow a minor deviation on residential lots regarding the following:

1. Front, rear and side yard building setbacks (for developed single family lots only);
2. Block wall heights; and
3. Accessory structure setbacks and heights.

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##### **C. Eligibility to Apply**

1. No application for an Administrative Deviation regarding a building setback may be submitted unless:

- a. In the case of a required side or rear setback of ten feet or less, the requested deviation will not exceed 10% of the required setback, and construction within the reduced setback will not extend more than 15 feet parallel to the property line from which the setback is measured;
  - b. In the case of required side or rear yard setback of greater than ten feet or a required front yard setback of greater than ten feet (exclusive of front-loading garages), the requested deviation will not exceed 10% of the required setback, and construction within the reduced setback will not extend more than 15 feet parallel to the property line from which the setback is measured;
  - c. The requested deviation is for a structure that will not exceed the greater of one story or 15 feet in height; and
  - d. The applicant submits signatures representing ownership of all abutting properties indicating no objection to the requested deviation.
2. No application for an Administrative Deviation may be submitted regarding the height of an accessory structure unless:
  - a. The requested height does not exceed 1.2 times the height of the main dwelling and does not exceed the allowable building height for the zoning district in which the property is located; and
  - b. The applicant submits signatures representing the ownership of all abutting properties indicating no objection to the requested deviation, or the ownership of all properties within 100 feet of the subject property, whichever would require the most signatures.
3. For purposes of this Section (C), the term "abutting" means sharing any property line with the parcel for which the deviation is sought, or which would share a property line but for an intervening right-of-way. In the case of deviations for setbacks or block walls, the Director shall have the authority to waive the signature requirement regarding properties which are deemed not to be adversely affected.

#### **D. Application**

1. An application for an Administrative Deviation shall be made to the Director on a form provided by the Department of Planning and Development. The application shall be filed with the office of the Department of Planning and Development.
2. The application shall be signed, notarized and acknowledged by the record owner of the property for which the Administrative Deviation is sought.

### **E. Decision**

Within 30 days after a complete application for Administrative Deviation has been filed and accepted, the Director shall make a decision to approve, approve with conditions or deny the application.

### **F. Administrative Deviation Determinations**

In order to approve an Administrative Deviation, the Director must determine that:

1. The request does not exceed the prescribed limitations of Section (C);
2. Granting the Administrative Deviation will not be inconsistent with the spirit and intent of the General Plan;
3. The request is not intended to be combined with a previous or future Variance request in order to achieve a deviation that would not likely be granted by means of Variance alone; and
4. That one or more of the following conditions exist:
  - a. There are special circumstances applicable to the property, such as size, shape, topography, location or surroundings and that the strict application of the Code requirement deprives the property of privileges enjoyed by other property in the vicinity and under the identical land use district classification;
  - b. Granting the Administrative Deviation is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity and land use district and is denied to the property for which the Administrative Deviation is sought;
  - c. The Administrative Deviation will not be materially detrimental to the public health, safety, or general welfare, or injurious to the property or improvements in the vicinity and land use district in which the property is located; or
  - d. Granting the Administrative Deviation does not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use district in which the property is located.

### **G. Conditions**

In connection with the approval of an Administrative Deviation, the Director may impose any conditions, restrictions or limitations as the Director determines to be necessary to meet the general purpose and intent of this Title and to ensure that the public health, safety and general welfare are being maintained.



## **H. Notice of Decision**

The Director shall provide written notice of his or her decision, which shall include the reasons for the decision and, if the decision is to approve the Administrative Deviation, any modifications, conditions or limitations that the Director may impose. The notice shall be provided to the owner or the owner's agent.

## **I. Precedents**

The fact that an Administrative Deviation for the same or similar use has been granted previously for the subject property or nearby property is a factor to be considered, but is not determinative.

## **J. Burden of Proof**

The applicant bears the burden of proof to establish that the approval of an Administrative Deviation is warranted.

## **K. Premature Use of Property**

The issuance of a building permit or business license for a development or structure that cannot be permitted without an Administrative Deviation, before an Administrative Deviation is approved, does not replace or otherwise affect the Administrative Deviation requirement.

## **L. Revocation**

1. **Notice.** The Director may hold a hearing to revoke or modify an Administrative Deviation. At least 10 days prior to any hearing, written notice of the hearing shall be delivered to the owner or developer, or both. Notice may be delivered in person or certified mail, return receipt requested, mailed to the address shown in the records of the Clark County Assessor.
2. **Grounds.** An Administrative Deviation may be revoked or modified for cause, including a finding of one or more of the following:
  - a. That the Administrative Deviation was obtained by misrepresentation or fraud;
  - b. That the development or structure is not in compliance with one or more of the conditions of approval;
  - c. That the development or structure permitted by the Administrative Deviation is in violation of any statute, ordinance, law or regulation.
3. **Notice of Decision.** Written notice of the decision shall be provided to the owner, developer or agent. A copy of the notice shall also be filed with the City Clerk, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

**19.18.090 DEVELOPMENT AGREEMENTS****A. Statutory Authority—Conformance Required**

Pursuant to the provisions of NRS 278.0201 through 278.0207, the City Council may enter into development agreements to regulate the development of land within the City. The agreements and the procedures applicable thereto shall be governed by and must conform to NRS 278.0201 through NRS 278.0207 and the provisions of this chapter.

**B. Planning Commission Review**

Before the City Council enters into a development agreement pursuant to this subchapter, the agreement shall be reviewed by the Planning Commission for consistency with the City's General Plan.

**C. Administration and Enforcement**

Subject to review and input from other City departments, the Department of Planning and Development shall be responsible for applying, administering and enforcing the provisions of this subchapter including the negotiation and enforcement of development agreements.

**D. Application of Zoning Provisions**

Except as otherwise provided in NRS 278.0201 through 278.0207 or in a development agreement entered into pursuant to this subchapter, all the procedures and requirements of this Title shall apply to the development of property that is the subject of a development agreement.

**19.18.100 TEMPORARY COMMERCIAL PERMIT****A. Purpose**

The purpose of this subchapter is to provide for a Temporary Commercial Permit to allow certain short-term activities that otherwise would not be allowed and to limit the activities to the circumstances and conditions set forth in this subchapter. The requirements of this subchapter apply to the activities specified herein whether or not they are conducted for profit.

**B. Authority**

1. The Director of the Department of Planning and Development shall have the authority to approve, approve with conditions, or deny a Temporary Commercial Permit.
2. The Director may at any time refer an application for a Temporary Commercial Permit to the Planning Commission for decision.

Ord 5551 12/4/02

**C. Permitted Uses**

The following temporary uses may be permitted by means of the issuance of a Temporary Commercial Permit.

1. A Temporary Contractor's Construction Yard in conjunction with an approved development project; provided, however, that no Temporary Commercial Permit is required if the use is located on the same site as the approved development and is operated in conformance with all applicable City ordinances and standards.
2. Seasonal Outdoor Sales, but only if such sales are limited to a maximum of thirty days prior to the specified holiday. No Temporary Commercial Permit is required when the sales operation:
  - a. Takes place on the same site as, and is in conjunction with, the operation of an established commercial business with a valid business license for that site; and
  - b. Conforms with all applicable City ordinances and standards.
3. Parking Lot/Sidewalk Sales; provided, however, that such sales:
  - a. Must take place on the same site as, and be in conjunction with, the operation of an established commercial business with a valid business license for that site;
  - b. Must take place on a paved or concrete area that is located on the same lot or within the same commercial subdivision as the structure that houses the business;
  - c. Are limited to a duration of seven days each; and
  - d. Occur no more than four times within a calendar year.
4. Temporary Outdoor Commercial Events; provided, however, that such events:
  - a. Are limited to a duration of thirty days each; and

- b. Occur no more than six times within a calendar year.
- 5. The sales of new automobiles, new trucks, or new boats at a shopping mall of at least 90 acres in size and located in the C-1 (or a less restrictive) Zoning District. At any one shopping mall, no more than four sales events may occur within any twelve-month period, and no one sale event may last more than three days.
- 6. Any other temporary use that is similar to those enumerated in this Subsection (C) and that, in the opinion of the Director, is compatible with the zoning district and surrounding land uses.

#### **D. Application and Decision**

An application for a Temporary Commercial Permit shall be filed with the Director and shall be accompanied by a filing fee as set forth in the fee schedule. The application shall contain sufficient information and detail to enable the Director to determine the appropriateness of issuing a permit under this subchapter. Within 30 days after receipt of a complete and sufficient application, the Director shall take appropriate action to approve, approve with conditions or deny the application. The Director may approve a Temporary Commercial Permit if the Director determines that:

- 1. The proposed use is compatible with existing land uses on the same property and on surrounding properties;
- 2. The subject site is physically suitable for the type and intensity of the use being proposed;
- 3. There will be adequate public access to the site and adequate provision for on-site parking;
- 4. The application is not a continuation of consecutive applications or otherwise an attempt to circumvent the limitations contained in this subchapter.

#### **E. Appeal**

The applicant may appeal a decision of the Director to the Planning Commission by filing a written request with the Department of Planning and Development. Any appeal pursuant to this section must be filed within 10 days after the date of the decision that is the subject of the appeal. The decision of the Planning Commission is final, unless appealed to the City Council as in the case of a Variance.

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#### **F. Conditions of Approval**

In approving a Temporary Commercial Permit, the Director (or, upon appeal, the Planning Commission) may impose conditions, stipulations or limitations as are deemed necessary to ensure that the activity will be consistent with Subsection (D) of this Section. Such conditions may include, but are not limited to the following:

- 1. Provision for temporary parking facilities, including vehicle ingress and egress;

2. Measures to prevent or reduce nuisance factors such as glare, excessive illumination noise, vibration, smoke, dust, dirt, odors, gases and heat;
3. Regulation of placement, height, size and location of structures, facilities, landscaping and equipment, including provision for buffering and separation;
4. Provision for sanitary facilities and for waste collection and disposal;
5. Measures to promote safety and security;
6. Regulation of signs and other attention-gaining devices;
7. Regulation of operating hours and duration of the temporary commercial use;
8. Regulation of the hours and duration of set-up and dismantling activities;
9. Compliance with applicable provisions of the Las Vegas Municipal Code;
10. Any other conditions which will ensure the operation of the proposed temporary use is conducted in an orderly, efficient manner and in accordance with the intent and purpose of this subchapter.

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#### **G. Cleanup of Temporary Site**

The holder of a Temporary Commercial Permit shall be responsible for leaving the property free of debris, litter or other evidence of the temporary use immediately upon completion or removal of the use. If the holder of the Temporary Commercial Permit is not the record owner of the property, the holder and the property owner(s) are jointly and severally responsible for compliance with this Subsection (G).

#### **H. Revocation**

A Temporary Commercial Permit may be revoked or modified by the Director, upon notice to the permit holder, if the Director finds that:

1. The permit was obtained by misrepresentation or fraud;
2. The activity is not in compliance with the permit or any condition of approval;
3. The use to be allowed by means of the permit is conducted in violation of any applicable statute, ordinance, or regulation; or
4. The permit is being employed as a means to circumvent the limitations contained in this Title.

**19.18.110 HOME OCCUPATION PERMIT****A. Purpose and Permit Requirement**

The purpose of this subchapter is to provide for a Home Occupation Permit to allow limited types of income producing activities within residential zoning districts. A home occupation is an incidental or secondary use so located that the average neighbor, under normal circumstances, would not be aware of its existence. Except as otherwise provided in this subchapter and Title, no residentially zoned parcel may be used for the purpose of conducting any business or income producing activity except as allowed by means of a Home Occupation Permit.

**B. Exceptions**

No Home Occupation Permit shall be required for educational activities, including but not limited to music lessons, academic tutoring or religious instruction, provided that no more than two students are present at any one time and the use complies with the requirements of this subchapter.

**C. Authority**

The Director of Planning and Development or, upon appeal, the Planning Commission, shall have the authority to approve, approve with conditions, or deny a Home Occupation Permit. In approving a Home Occupation application, the Director (or if applicable, the Planning Commission) may impose conditions, stipulations or restrictions as are deemed necessary to ensure that the activity will be consistent with the intent of this subchapter.

**D. Application**

An application for a Home Occupation Permit shall be filed with the Director. The application shall contain sufficient information and detail to enable the Director to determine the appropriateness of issuing a permit under this subchapter. If the Home Occupation is to be conducted by the tenant of property which is leased or rented, the tenant shall obtain written authorization from the property owner or property manager and submit the authorization with the Home Occupation Permit application.

**E. Process and Review**

Within 30 days after receipt of a complete application, the Director shall approve, approve with conditions, or deny the application.

**F. Decision and Notice of Decision**

1. The Director shall approve a Home Occupation Permit if the Director finds that;
  - a. The proposed Home Occupation is compatible with the existing residential uses on the property and surrounding properties; and
  - b. The proposed Home Occupation will conform to the Operational Standards and requirements contained in this subchapter.
2. The Director shall provide written notice of the decision, which shall include the reasons for the decision and, if the decision is to approve the Home Occupation Permit, any modifications, conditions or limitations that the Director may impose. The notice shall be provided to the owner or the owner's agent.

**G. Operational Standards**

1. In order to approve a Home Occupation Permit, the Director (or if appealed, the Planning Commission) must be satisfied that the proposed Home Occupation can and will comply with the following operational standards:
  - a. Only the occupants of the dwelling unit shall be engaged in the business activity approved for the Home Occupation Permit;
  - b. No employees shall report to work or be dispatched from the property;
  - c. There shall be no transacting of business or offers to transact business with customers or clients who have come to the property;
  - d. There shall be no signage or other advertising of any kind, whether on the property or elsewhere, which advertises the address or physical location of the property or identifies the existence of a Home Occupation on the property. A home telephone number or a post office box may be advertised by any medium other than on-site signage;
  - e. No motor vehicle repair, paint or body work; commercial preparation of food for service on the premises; business related to or involving explosives, ammunitions or weapons; beauty parlor or barber shop; or ambulance or related emergency services shall be permitted as a Home Occupation;
  - f. A Home Occupation shall not create pedestrian, automobile or truck traffic in excess of the normal amount associated with residential uses in the district;
  - g. A Home Occupation shall be conducted exclusively within the main dwelling or within an accessory structure which has been approved for the Home Occupation Permit, except for horticultural activities;
  - h. No more than one vehicle, with a maximum capacity of one-ton, shall be used in connection with a Home Occupation Permit;

- i. The number of on-site parking spaces shall not be reduced to less than two;
  - j. There shall be no outdoor storage or use of any toxic chemicals or hazardous materials of any type or in any amount not normally found in a residential structure;
  - k. There shall be no electrical or mechanical equipment which is not normally found in a residential structure, and no equipment found on the premises shall cause a change in the fire safety or occupancy classification of the dwelling unit; and
  - l. No Home Occupation shall create or cause noise, dust, light, vibration, gas, fumes, toxic/hazardous materials, smoke, glare, electrical interference or other hazards or nuisances.
2. The following uses are uses that normally may be permitted by means of Home Occupation Permit if they can be conducted in compliance with the Operational Standards in subsection (1) of this section. This is not a comprehensive list but should be used to establish appropriate types of uses for Home Occupations.
- a. 800 and 900 number telephone services;
  - b. Accounting, bookkeeping, tax preparation or related services;
  - c. Appraisal, real estate or related services;
  - d. Architectural, engineering, general contractor or related professional services;
  - e. Artist, artisans, hobbyists, jeweler or related services;
  - f. Computer based businesses, desktop publishing, drafting or related services;
  - g. Consulting or related services;
  - h. Employment services;
  - i. Financial investment, brokerage or related services;
  - j. Handicrafts, gift basket assembly, floral, ceramics or related services;
  - k. Health fitness training services;
  - l. Home improvement and repair services;
  - m. Incidental office and telephone uses;
  - n. Information services;
  - o. Insurance services;
  - p. Interior design and decorating services;



- q. Legal, court reporting or related services;
  - r. Mail order and catalog services;
  - s. Mobile service businesses;
  - t. Network marketing services;
  - u. Janitorial, maintenance and repair services;
  - v. Party planning services;
  - w. Photography, video or related services;
  - x. Secretarial, typing, answering or related services;
  - y. Tailoring and sewing services;
  - z. Teaching or related services with a maximum of two students at any one time;
  - aa. Travel services;
  - bb. Vending machine businesses;
  - cc. Writers, authors or related professionals.
3. Any Home Occupation Permit which is found to be similar to those enumerated in this section and which, in the opinion of the Director, is compatible with the intent of this subchapter, may be approved or approved with conditions. If the Director determines that a proposed Home Occupation would be detrimental to the public health, safety and welfare or injurious to the existing land uses on the property or to the surrounding properties, or does not substantially conform to the Operational Standards contained in this subchapter, the Director shall deny the Home Occupation Permit.

## **H. Appeal of Director's Action**

If the applicant is aggrieved by the Director's decision, or any conditions attached thereto, the applicant may appeal the decision to the Planning Commission by written request within 10 days after the date of decision by the Director. The appeal must be filed in the Department of Planning and Development. The appeal hearing shall be scheduled as soon as is reasonably possible, and appropriate notice of the hearing shall be provided. The Planning Commission may affirm, reverse or modify the Director's decision. Notice of the Planning Commission's decision shall be provided to the applicant or the applicant's agent, and the date of the notice shall be deemed to be the date notice of the decision is filed with the City Clerk.

## **I. Optional Treatment of Appeal**

The Director or Planning Commission, may require that an appeal filed pursuant to Section (H) be heard as a public hearing item. The requirement for a public hearing must be based upon a determination that, in the instance of that particular application, the public interest will best be served by providing notice and an opportunity to be heard to surrounding property owners. In such event, the Director shall process the application in accordance with the standards and procedures for Special Use Permit applications.

## **J. Transfer of Permits**

A Home Occupation permit shall not be transferable to:

1. Another address, or
2. Any person other than the applicant, a family member residing in the home, or a legal entity in which the applicant or resident family member has a controlling interest.

## **K. Expiration**

Home Occupation Permits not exercised within one year after approval shall be void without further action unless a greater time limit is specified in the approval. Home Occupation uses which cease for more than 6 months shall be void without further action.

## **L. Revocation or Modification**

1. **Notice and Hearing.** Upon proper notice to, and an opportunity to be heard by, the permit holder, the Director may revoke or modify a Home Occupation permit if the Director determines one or more of the following:
  - a. That the Home Occupation is not in compliance with one or more of the Operational Standards of this subchapter;
  - b. That the Home Occupation Permit was obtained by misrepresentation or fraud;
  - c. That the Home Occupation is being conducted in violation of any statute, ordinance, law or regulation.
2. **Appeal and Notice of Decision.** The Director's decision may be appealed in the same manner as the initial denial of a Home Occupation Permit, in accordance with Section (H). The provisions of Section (I) shall not apply to the appeal, except that the Director and the or the Planning Commission may provide notice and opportunity to be heard to surrounding property owners.

**19.18.120 ZONING CODE TEXT AMENDMENT****A. Purpose**

The purpose of this subchapter is to provide for a process to amend the text of this Title.

**B. Authority**

1. Whenever public health, safety and general welfare may require, the City Council may amend, supplement, modify, change, or repeal any of the regulations contained in this Title.
2. Except where immediate concern for the public health, safety or general welfare dictate otherwise, the substance of any proposed amendment to the text of this Title shall be presented to the Planning Commission for its recommendation.

**C. Planning Commission Public Hearing and Action**

1. The Planning Commission shall hold a public hearing upon any proposed text amendment that has been presented to the Planning Commission for review.
2. Notice of the time, place and purpose of the hearing shall be given at least 10 days before the hearing by publishing a notice in a newspaper of general circulation within the City.
3. The Planning Commission shall hear and consider evidence and facts from any person present at the public hearing who desires to be heard and shall consider written communication from any person.
4. At the conclusion of the public hearing on the text amendment, the Planning Commission may recommend approval, approval with modification or disapproval of the amendment, or may hold the item in abeyance for further study.

**D. City Council Consideration**

The recommendation of the Planning Commission shall be made available to the City Council in connection with the Council's consideration, if any, of the text amendment.

**19.18.130 STREET NAME CHANGE****A. Purpose**

1. The purpose of this subchapter is to establish a procedure to change the name of any street or a portion of a street.
2. Street name changes will be made consistent with Title 13, Chapter 28 of the LVMC, City of Las Vegas Street Naming and Address Assignment Regulations.

**B. Application**

A petition for Street Name Change shall be made on a form to be provided by the Department of Planning and Development. The applicant shall file two copies of the petition with the Director of the Department of Planning and Development. The petition shall describe with certainty the portion of the street or streets to be affected. The petition shall be signed by all abutting property owners or a representative of the local government initiating the petition.

**C. Time of Filing**

In order to provide sufficient time for the necessary investigation by the Planning Commission and/or the Director, an application for a Street Name Change must be filed with the Director a minimum of 30 days prior to the date of the meeting of the Planning Commission at which the Street Name Change application is to be heard and considered.

**D. Planning Commission Public Hearing and Action**

1. **Process and Review.** The Planning Commission shall hold a public hearing upon a completed application for Street Name Change following receipt of the petition.
2. **Notice.** The Director shall endeavor to mail notices of the Planning Commission meeting at which the petition will be considered to all persons owning property abutting the street or streets to be affected by the proposed name change; however, the failure to do so shall not invalidate any action taken at the meeting.
3. **Decision and Report.** Following the conduct of a public hearing or hearings, the Planning Commission shall make its recommendation either to grant or deny the application for a Street Name Change. The Planning Commission shall transmit a report of its recommendation to the City Council.

**E. City Council Public Hearing and Review**

The City Council shall consider the application for Street Name Change and the recommendation of the Planning Commission at its next available meeting. If the City Council finds that it is in the best interest of the public and that no person will be materially injured, the City Council may order that the name of the street be changed.

**F. Recording**

The order contemplated in Section E of this subchapter shall be recorded in the office of the County Recorder and in the event the original name of the affected street is indicated on a subdivision map, parcel map or plat on file with the Recorder, the County Recorder shall make a written notation of the change on any map affected by the order.